1952

File No. O. Spl. Marriage 1/52

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PAF Legal Deptt

A BRANCH

Subject:—Opinions under the Special Marriage Act 1872

File No. O. Spl. Marriage/52

Gen. 194

298-A

C O N T E N T S

Legal Department File No. U.Spl.Marriage/52.

Sr. No.	R.I./U.No.	Subject.	Pages.
2.		Opinions under the Special Marriage Act 1872-	
1.	178 7-1-52.	598 19-1-52. Whether Shri David will have to pay all the dues before any certificate is given to him even if he gets divorce.	1-5

EGN.20/6/

R.I.No.172 dated 7.1.52.

Submitted.

2. Shri Daniel David (46) an Indian National (a Mahomedan by religion, andborn of jewishparents) who is in the employ of the Anglo Iranian Oil Companym Abadan, Iran since last 28 years desires to marry Miss Banno Rabdba Ali Razai (21) an Iranian national. According to the Iranian Marriage Regulations a foreign national intending to marry an Iranian lady has to obtain a Marriage licenpe from the Iranian Home Ministry and such licence is issued inter alia only on the production of certificates from the official sources in his country or from the Consular or Diplomatic Official to the effect (1) that no abstacles exist fro him in his country to marry an Iranian lady and that the officials concerned are prepared to register the marriage after it has taken place and (2) that he is already not married. (see Articles two and three of the Regulations of the Marriage of a foreign national to an Iranian ladyat pp.85-86 ante). Shri David has accordingly made an application to the Indian Embassy at Tehran requesting for the requisite certificates. According to the delcarat ion made by Shri Devid before the Indian embassy officials in Tehran he was married in 1938 to an Iraqi girl by name Simba andhas three minor living sons out of this marriage who are at Calcutta under the care of his mother. It appears Fhri David while he was in Bombay in 1944 got Shrimati Simha David admitted in the Central Mental Hospatial, Yeravda on a receippion order under the provisions of the Indian Lunancy Act, 1912 of the Presidency Magistrate, Fifth Court Dadar, and the maintenance charges which he had agreed to pay in respect of her are still out standing. The Indian Embassy at Tehran are not prepared to grant the

is asked for by Shri David unless he settles dues and makes adequate provision for the maintenance and education of his minor children and has requested the Ministry of External Affairs whether they are agreeable to such a course. As the maintenance charges concern the State Govt of Bombay the Government of India have referred the papers to this Govt. for their views. The Registrar General of Births, Deaths and marriages considers that there would be no objection to the marriage of Shri David with the Iranian Girl in Tehran of his first marriage has not been registered under the special marriage Act, 1872 or otherwise he would be required to obtain a divorce under section 16 of the Act before he can remarry. The L.S.G. & F.H.D. is of opinion that in case the marriage is registered under the Act and he is required to obtain the divorce Shri David will have to be asked to pay all the dues before any certificate is given to him, and that in case it is so registered he would continue to be liable even after the re-marriage. R.L.A. is requested to advise.

R.L.A.. Sd/P.M.Pad. EKN20/6/

Office of the H.L.A.

Seen and returned.

The view taken by the Registrar General of Births, Deaths and Marriages is correct.

Sd/ P. M. Lad.

Remembrancer of Legal Affairs.

D.R. to L.S.G. & M.H.D., No.698, dated the 17th January 1952.

EKN.20/6/